

Public Health (Smoke
Abatement) Act, 1926.

[16 & 17 GEO. 5. CH. 43.]

ARRANGEMENT OF SECTIONS.

A.D. 1926.

Section.

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CHAPTER 43.

An Act to amend the law relating to smoke nuisances and for other purposes connected therewith. A.D. 1926.
[15th December 1926.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1.—(1) The provisions of the Public Health Act, 1875, relating to smoke nuisances shall be amended as follows :—

Amendment
of 38 & 39
Vict. c. 55,
and 54 & 55
Vict. c. 76
in respect of
smoke
nuisances.

(a) For the purposes of section ninety-one of the Act a chimney (not being the chimney of a private dwelling-house) sending forth smoke in such quantity as to be a nuisance shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by that Act, notwithstanding that the smoke is not black smoke :

(b) For the purposes of sections ninety-one, ninety-two, and one hundred and two of the Act the expression " smoke " shall include soot, ash, grit, and gritty particles :

(c) Where the complaint upon which a summons is issued relates to a smoke nuisance, fifty pounds shall be substituted for five pounds as the maximum penalty which may be imposed under section ninety-six of the Act :

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(d) Section ninety-eight of the Act in its application to an order relating to a smoke nuisance shall be read as if forty shillings and five pounds were substituted therein for ten shillings and twenty shillings respectively :

(e) Section three hundred and thirty-four of the Act shall have effect as if there were included amongst the processes specified in that section the processes of re-heating, annealing, hardening, forging, converting and carburising iron and other metals, and if the Minister of Health makes a Provisional Order to that effect, any other industrial process specified in the Order :

Provided that the Minister may by Provisional Order at any time after the expiration of five years from the passing of this Act exclude from the application of that section any processes specified in that section as amended by this paragraph so far as smoke nuisances are concerned. An order made under this subsection for including any process amongst the processes specified in section three hundred and thirty-four of the Act or for excluding any process therefrom may contain conditions and limitations subject to which the inclusion or exclusion is to take effect.

54 & 55 Vict.
c. 76.

(2) The provisions of the Public Health (London) Act, 1891, relating to smoke nuisances and smoke consumption shall be amended as follows:—

(a) For the purposes of section twenty-four of the Act a chimney (not being the chimney of a private dwelling-house) sending forth smoke in such quantity as to be a nuisance shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by that Act, notwithstanding that the smoke is not black smoke :

(b) For the purposes of sections twenty-three and twenty-four of the Act the expression “ smoke ” shall include soot, ash, grit, and gritty particles :

(c) Where a notice served under section four of the Act relates to a smoke nuisance, fifty pounds shall be substituted for ten pounds as the maximum penalty which may be imposed under subsection (4) of that section :

(d) Where a nuisance order made under section five of the Act relates to a smoke nuisance, subsection (9) of that section and subsection (3) of section six of the Act shall be read as if forty shillings and five pounds were substituted therein for twenty shillings and forty shillings respectively : A.D. 1926.
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(e) In subsection (2) of section twenty-three of the Act (which relates to penalties for non-consumption of their own smoke by furnaces) “twenty-five pounds” and “fifty pounds” shall be substituted for “five pounds” and “ten pounds” respectively.

(3) In any proceedings for sending forth smoke, other than black smoke, from a chimney in such a quantity as to be a nuisance, it shall be a defence for the person charged to show that he has used the best practicable means for preventing the nuisance, having regard to the cost and to local conditions and circumstances, and for the purposes of this subsection, the expression “best practicable means” has reference not only to the provision and efficient maintenance of adequate and proper plant for preventing the creation and emission of smoke, but also to the manner in which such plant is used.

(4) Where, in the opinion of any officer duly authorised by a local authority to act in that behalf, a smoke nuisance exists, he shall, as soon as practicable after he has become aware thereof, notify the occupier of the premises on which the nuisance exists, and, if that notification was not in writing, shall, within twenty-four hours after he has become aware of the nuisance, confirm the notification in writing.

2.—(1) Any local authority may, and if so required by the Minister of Health, shall, make byelaws regulating the emission of smoke of such colour, density, or content as may be prescribed by the byelaws, and where such byelaws are in force the emission of smoke of the character so prescribed for such period as may be prescribed in the byelaws either from buildings generally to which the enactments relating to smoke nuisances apply or from such classes of those buildings as may be so prescribed shall, until the contrary is proved, be presumed to be a nuisance. Byelaws as to smoke.

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(2) In the application of this section to London, the port sanitary authority of the port of London shall be the local authority within the district of that authority, but save as respects that district the London County Council shall be the local authority within the area of the county of London and the Common Council shall be the local authority within the City of London.

(3) The provisions of the Public Health Acts, 1875 to 1925, and of the Public Health (London) Act, 1891, as the case may be, shall apply to the making, confirming and enforcing of any byelaws made under this section.

Meaning of
"chimney."

3. For the purpose of section ninety-one of the Public Health Act, 1875, section twenty-four of the Public Health (London) Act, 1891, and of this Act, the expression "chimney" shall include structures and openings of any kind whatsoever capable of emitting smoke.

Power to
make orders
extending
the pro-
visions of
6 Edw. 7.
c. 14.

4.—(1) The Minister of Health may, after a public inquiry and after consultation with any local authorities or other interests concerned, make orders—

(a) extending the list of noxious or offensive gases mentioned in section twenty-seven of the Alkali, &c., Works Regulation Act, 1906; and

(b) extending the list of works mentioned in the First Schedule to the said Act;

and any such order may prescribe the qualifications subject to which subsection (1) of section seven of the said Act shall apply in the case of any noxious or offensive gas, or in the case of any works, included in such order.

(2) Any order made under this Act shall be laid before both Houses of Parliament forthwith; and if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it, praying that the order may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new order.

(3) Where the Minister of Health is of opinion that any work is of such a character as is likely to cause the evolution of any noxious or offensive gas he may, notwithstanding that the provisions of the Alkali, &c.,

Works Regulation Act, 1906, may not apply to that work, authorise an inspector appointed under that Act to enter and inspect such work, and the provisions of that Act relating to the powers of inspectors shall apply in respect of that work in the case of any inspector so authorised.

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5. The powers of an urban authority under section one hundred and fifty-seven of the Public Health Act, 1875, and of the London County Council under section one hundred and sixty-four of the London Building Act, 1894, shall extend to the making of byelaws requiring the provision in new buildings other than private dwelling-houses of such arrangements for heating or cooking as are calculated to prevent or reduce the emission of smoke.

Power to
make bye-
laws respect-
ing new
buildings.
57 & 58 Vict.
c. cxxiii.

6. Two or more local authorities may combine to carry out their duties under section ninety-two of the Public Health Act, 1875, in respect of smoke nuisances, and for that purpose may concur in appointing a joint committee to which the provisions of section fifty-seven of the Local Government Act, 1894, shall apply.

Combina-
tion of local
authorities
for purposes
of Act.
56 & 57 Vict.
c. 73.

7.—(1) If a county council resolve that a local authority within the county have failed to carry out their duties under section ninety-two of the Public Health Act, 1875, in respect of smoke nuisances and make complaint thereof to the Minister of Health, or if a local authority after being required by the Minister so to do have failed to make such byelaws as are mentioned in this Act, the Minister may cause an inquiry to be held and, if satisfied from the result of such inquiry that the local authority have failed to carry out their duties adequately, may by order authorise the county council to carry out those duties either for a definite period or until the Minister otherwise directs.

Powers of
county
councils.

(2) The Minister shall in any case where he considers it expedient to do so cause an inquiry to be held as to the manner in which a local authority have carried out their duties under the said Act with respect to smoke nuisances, and if satisfied from the result of such inquiry that the authority have failed to carry out their duties adequately, he may by order authorise the county council to carry out those duties either for a definite period or until the Minister otherwise directs.

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(3) Any expenses incurred by a county council in carrying out any such duties shall be deemed to be a debt from the local authority to the county council, and shall be defrayed as part of the expenses of the local authority in the execution of the Public Health Act, 1875.

Duty of local authorities to furnish information.

8. Every county council or other local authority shall, on being required to do so by the Minister, furnish to the Minister such information as he may from time to time require as to their proceedings with regard to the abatement of smoke nuisances.

Saving as to steam vessels.

9. Nothing in this Act shall apply to any ship habitually used as a sea-going ship, or affect the enactments in force at the commencement of this Act with respect to smoke nuisance and smoke consumption in any such ship.

Powers of local authorities to conduct researches.

10.—(1) A local authority may undertake or may combine with other local authorities in undertaking investigations and researches into problems relating to atmospheric pollution and the abatement of smoke nuisances, and may contribute towards the cost of similar investigations and researches undertaken by other bodies or persons.

(2) The Minister of Health may, for the purposes of this section, make rules prescribing restrictions or conditions subject to which powers conferred by this section may be exercised.

Application to Crown.

11. If it appears to a local authority that a smoke nuisance exists on any premises within their district occupied for the public service of the Crown, they shall report the circumstances to the appropriate government department, and, if the Minister responsible for that department is satisfied after due inquiry that such a nuisance exists, he shall cause such steps to be taken as may be necessary to abate the nuisance and to prevent a recurrence thereof.

Short title, extent and commencement.

56 & 57 Vict. c. 47.

12.—(1) This Act may be cited as the Public Health (Smoke Abatement) Act, 1926, and the Public Health Acts, 1875 to 1925, and this Act (except so far as it relates to London) may be cited together as the Public Health Acts, 1875 to 1926, and the Public Health (London) Act, 1891, the Public Health (London) Act, 1891, Amendment Act, 1893, and this Act so far as it

relates to London, may be cited together as the Public Health (London) Acts, 1891 to 1926. A.D. 1926.
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(2) Section four of this Act shall be construed as one with the Alkali, &c., Works Regulation Act, 1906, and the other provisions of this Act in their application to London shall be construed as one with the Public Health (London) Act, 1891, but save as aforesaid this Act shall be construed as one with the Public Health Acts, 1875 to 1925. Provided that in the application to London of such other provisions of this Act as aforesaid the expression "local authority" shall mean the sanitary authority within the meaning of the Public Health (London) Act, 1891, save as otherwise in this Act provided.

(3) This Act shall not apply to Scotland or Northern Ireland.

(4) This Act shall come into operation on the first day of July, nineteen hundred and twenty-seven.

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